

## EXHIBIT 279

### MODEL LETTER NOTICE OF FINDINGS OF NONCOMPLIANCE

(Date)

Community Mental Health Center Name  
Address  
City, State, ZIP Code

Dear \_\_\_\_\_:

RE: Provider Number (**Provider Number**)

After careful review of the facts, the Centers for Medicare & Medicaid Services (CMS) has determined that (**name of provider**) fails substantially to meet the applicable provisions of §1861(ff)(3) of the Social Security Act (the Act) and regulations and/or fails to comply substantially with the provisions of its Health Insurance Benefit Agreement (provider agreement). In accordance with §1866 of the Act and 42 CFR Part 489.53, CMS may terminate a Community Mental Health Center's (CMHC) provider agreement to participate in the Medicare program when it determines that a CMHC is not complying with the provisions of the Act, applicable regulations, or the provider agreement.

(**Provider name**) entered into a provider agreement as a CMHC on (**date**). In that agreement, (**provider name**) agreed to: (A) Maintain compliance with §1861(ff)(3)(B)(i) of the Act by providing the services described in §1913(c)(1) of the Public Health Service Act (PHSA); (B) Maintain compliance with §1861(ff)(3)(B) of the Act by meeting applicable licensing or certification requirements for CMHCs in the State in which it is located; and (C) Maintain compliance with the requirements set forth in Parts 400, 410, 424 and 489 of the Chapter IV, Title 42 of the CFR, and to report promptly to CMS any failure to do so.

To participate as a provider of partial hospitalization services in the Medicare program an entity must meet the statutory requirements for a CMHC. These requirements are found at §1913(c)(1) (formerly §1916(c)(4) of the PHSA). The core PHSA services that an entity must provide in order to be approved as a CMHC are as follows: Outpatient services, including specialized outpatient services for children, the elderly, individuals with a serious mental illness, and residents of service areas of the centers who have been discharged from inpatient treatment at a mental health facility; 24 hour-a-day emergency care services; day treatment or other partial hospitalization services, or psychosocial rehabilitation services; and screening for patients being considered for admission to State mental health facilities to determine the appropriateness of such admission. A CMHC is

**(Name)**

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also defined at 42 CFR Part 410.2. In accordance with the PHSA, the core services must actually be provided by a CMHC and not just be available to be provided. The core services must continue to be provided following Medicare approval.

Please see attached findings of noncompliance (Attachment 1). You have 15 calendar days from the date of receipt of this notification to respond to the attached findings. Please include any documentation you have which supports any factual assertions you make, as well as any legal conclusions with which you disagree.

This documentation should include any material that you consider relevant, for example, medical records, logs, and contractual documentation. While there is no maximum number of clinical records or materials that you may submit, we believe that 5 clinical records for each core service (a maximum of 25 patients) should generally suffice for purposes of this review.

If you demonstrate that **(provider name)** provides the requisite core services, no termination will be effected. However, if after review of the information as well as the review of the team's findings and documentation, CMS still believes that you do not provide one or more of the required services, it will provide 15 calendar days notice of its decision to terminate **(provider name)** prior to termination.

Please send the response in writing to: **(name and address)**

(\*Insert the following sentence as applicable. We have determined that the State of **(State)** precludes your facility from providing **(list the core service(s))**).

Sincerely yours,

Associate Regional Administrator  
(or its equivalent)

Attachment

## **Exhibit 279**

### **Attachment 1 - Statement Of Findings**

Provide the CMHC with an adequate explanation of CMS' findings of noncompliance for each of the unmet core service requirements. For example:

You previously attested over a penalty clause that you were providing all of the PHSA core services. However, an onsite visit was made to your facility on 00/00/00, and you were asked to provide any and all documentation to substantiate the provision of each of the core services. In order to demonstrate the provision of outpatient services for the elderly, you provided a patient record for JOHN DOE. Our review of this record determined that Mr. DOE was 14 years old. Therefore, this record did not substantiate the provision of outpatient services for the elderly. No other record or documentation was submitted for this core service. Therefore, we have concluded that you have failed to provide outpatient services for the elderly, one of the core services listed in §1913(c)(1) of the PHSA and required by §1861(ff)(3)(B) of the Social Security Act.